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October 5, 2016

Silvercreek Management Inc., et al. v. Citigroup, Inc., et al.,
No. 02-cv-08881-JPO (S.D.N.Y.)

The Honorable J. Paul Oetken
United States District Court for the Southern District of New York
40 Foley Square
New York, NY 10007

Dear Judge Oetken:

We write on behalf of the Financial Institution Defendants (Credit Suisse, Deutsche Bank and Merrill Lynch) to oppose plaintiffs' request for leave to submit a 120-page opposition to the motions to dismiss.

In a July 29, 2016 letter to the Court, the Financial Institution Defendants sought leave to submit a joint memorandum of no more than 40 pages, with (two) defendant-specific memoranda of no more than 15 pages each (for a potential total of 70 pages). In that letter and in prior communications with plaintiffs, the Financial Institution Defendants explained that they would have no objection to a corresponding page extension for plaintiffs' oppositions to match the pages permitted for memoranda in support. Plaintiffs stated at the time that they "do not object to your request for additional pages but we'd like to reserve judgement [sic] on many [sic] additional pages we need until we review Defendants' submissions." (July 28, 2016 Email from S. Hessell to D. Korn.) The Court granted leave, and on August 5, 2016, the Financial Institution Defendants filed 60 pages of memoranda in support: a joint memorandum (35 pages) and two defendant-specific memoranda (10 and 15 pages).

After extensions to plaintiffs' filing deadline that defendants did not oppose, plaintiffs waited until today, the day before their brief is due, to ask the Financial Institution Defendants about page limits. Plaintiffs now ask this Court for leave to respond to 60 pages of briefing with up to 120 pages in opposition. Plaintiffs suggest that because they were permitted to file a lengthy opposition under the rules of the Southern District of Texas Court, they should be allowed to follow the same standard in this Court. However, this Court typically restricts memoranda of law in support and opposition to 25 pages, while the Texas Court has no such limits. Plaintiffs state that they need the extensive additional space because of the number of contested claims and the 275-page length of their operative complaint, but neither justifies such a wide expansion beyond the opening briefs, and plaintiffs give no clear reason why they cannot respond to defendants' arguments in briefs of comparable length. A 120-page opposition, twice the length of defendants' submissions, is likely to introduce extraneous issues and confusion and lead to similarly lengthy replies, all dis-serving this Court.

Instead, the Financial Institution Defendants reiterate their suggestion that plaintiffs be granted leave to submit an opposition brief of 70 pages, the same number of additional pages that defendants were permitted in the Court's August 1, 2016 Order (40 pages for the joint memorandum, 15 pages each for the defendant-specific memoranda), which is still more pages than defendants in fact used. If plaintiffs need an additional extension of time in order to edit their opposition to a more reasonable length, the Financial Institution Defendants have no objection.

* * *

Respectfully submitted,

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